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PTO/SB/05 (12/97) (modified)

Approved for use through 09/30/00. OMB 0651-0032

Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

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 <b>UTILITY PATENT APPLICATION TRANSMITTAL</b> <small>(Only for new nonprovisional applications under 37 CFR 1.53(b))</small>	Attorney Docket No.	441742001200	Total Pages	64
	First Named Inventor or Application Identifier			
	James G. WHAYNE et al.			
	Express Mail Label No.	EL569178593US		
<b>CERTIFICATE OF MAILING BY "EXPRESS MAIL"</b>				
Express Mail Label No.: EL569178593US		Date of Deposit: November 3, 2000		
<p>I hereby certify that this paper or fee is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 C.F.R. § 1.10 on the date indicated above and is addressed to: Assistant Commissioner for Patents, Washington, D.C. 20231.</p> <p><i>Gary Paulazzo</i></p>				

<b>APPLICATION ELEMENTS</b> <small>See MPEP chapter 600 concerning utility patent application contents.</small>		ADDRESS TO: Assistant Commissioner for Patents Box Patent Application Washington, DC 20231		
<p>1. <input checked="" type="checkbox"/> Fee Transmittal Form <i>(Submit an original, and a duplicate for fee processing)</i></p> <p>2. <input checked="" type="checkbox"/> Specification [Total Pages <span style="border: 1px solid black; padding: 2px;">40</span>]  <i>(preferred arrangement set forth below)</i></p> <ul style="list-style-type: none"> <li>- Descriptive title of the Invention</li> <li>- Cross References to Related Applications</li> <li>- Statement Regarding Fed sponsored R &amp; D</li> <li>- Reference to Microfiche Appendix</li> <li>- Background of the Invention</li> <li>- Brief Summary of the Invention</li> <li>- Brief Description of the Drawings <i>(if filed)</i></li> <li>- Detailed Description</li> <li>- Claim(s)</li> <li>- Abstract of the Disclosure</li> </ul> <p>3. <input checked="" type="checkbox"/> Drawing(s) (35 USC 113) [Total Sheets <span style="border: 1px solid black; padding: 2px;">13</span>]</p> <p>4. <input checked="" type="checkbox"/> Oath or Declaration [Total Pages <span style="border: 1px solid black; padding: 2px;">2</span>]</p> <ul style="list-style-type: none"> <li>a. <input checked="" type="checkbox"/> Newly executed (original or copy)</li> <li>b. <input type="checkbox"/> Copy from a prior application (37 CFR 1.63(d)) <i>(for continuation/divisional with Box 17 completed)</i> <i>[Note Box 5 below]</i></li> <li>i. <input type="checkbox"/> <b>DELETION OF INVENTOR(S)</b> <small>Signed statement attached deleting inventor(s) named in the prior application, see 37 CFR 1.63(d)(2) and 1.33(b)</small></li> </ul> <p>5. <input type="checkbox"/> Incorporation By Reference <i>(useable if Box 4b is checked)</i> <small>The entire disclosure of the prior application, from which a copy of the oath or declaration is supplied under Box 4b, is considered as being part of the disclosure of the accompanying application and is hereby incorporated by reference therein.</small></p>				
<p>6. <input type="checkbox"/> Microfiche Computer Program <i>(Appendix)</i></p> <p>7. <input type="checkbox"/> Nucleotide and/or Amino Acid Sequence Submission <i>(if applicable, all necessary)</i></p> <ul style="list-style-type: none"> <li>a. <input type="checkbox"/> Computer Readable Copy</li> <li>b. <input type="checkbox"/> Paper Copy <i>(identical to computer copy)</i></li> <li>c. <input type="checkbox"/> Statement verifying identity of above copies</li> </ul>				
<b>ACCOMPANYING APPLICATION PARTS</b>				
<p>8. <input checked="" type="checkbox"/> Copy of Assignment from prior provisional application.</p> <p>9. <input checked="" type="checkbox"/> 37 CFR 3.73(b) Statement <input checked="" type="checkbox"/> Power of Attorney <i>(when there is an assignee)</i></p> <p>10. <input type="checkbox"/> English Translation Document <i>(if applicable)</i></p> <p>11. <input type="checkbox"/> Information Disclosure Statement (IDS)/PTO-1449 <input type="checkbox"/> Copies of IDS Citations</p> <p>12. <input type="checkbox"/> Preliminary Amendment</p> <p>13. <input checked="" type="checkbox"/> Return Receipt Postcard (MPEP 503) <i>(Should be specifically itemized)</i></p> <p>14. <input type="checkbox"/> Small Entity Statement(s) <input checked="" type="checkbox"/> Statement filed in prior provisional application, Status still proper and desired</p> <p>15. <input type="checkbox"/> Certified Copy of Priority Document(s) <i>(if foreign priority is claimed)</i></p> <p>16. <input type="checkbox"/> .....</p> <p>.....</p> <p>.....</p>				

17. If a CONTINUING APPLICATION, check appropriate box and supply the requisite information:

Continuation    Divisional    Continuation-in-part (CIP) of prior application No:

**18. CORRESPONDENCE ADDRESS**

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Registration No. 45,565

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If a paper is untimely filed in the above-referenced application, the applicant or his/her representative, the Assistant Commissioner is hereby petitioned under 37 C.F.R. § 1.136(a) for the minimum extension of time required to make said paper timely. In the event a petition for extension of time is made under the provisions of this paragraph, the Assistant Commissioner is hereby requested to charge any fee required under 37 C.F.R. § 1.17(a)-(d) to **Deposit Account No. 03-1952**. However, the Assistant Commissioner is NOT authorized to charge the cost of the issue fee to the Deposit Account.

The filing fee has been calculated as follows:

FOR	NUMBER FILED	NUMBER EXTRA	RATE	CALCULATIONS
TOTAL CLAIMS	31 - 20 =	11	x \$18.00	\$198.00
INDEPENDENT CLAIMS	3 - 3 =	0	x \$80.00	\$0.00
MULTIPLE DEPENDENT CLAIM(S) (if applicable)			+ \$270.00	\$0.00
			BASIC FEE	\$710.00
			TOTAL OF ABOVE CALCULATIONS =	\$908.00
Reduction by 1/2 for filing by small entity (Note 37 C.F.R. §§ 1.9, 1.27, 1.28). If applicable, verified statement must be attached.				\$454.00
Assignment Recording Fee (if enclosed)				\$0.00
			TOTAL =	\$454.00

A check in the amount of \$454.00 is attached.

Applicant(s) hereby petitions for any required relief including extensions of time and authorizes the Assistant Commissioner to charge the cost of such petitions and/or other fees or to credit any overpayment to **Deposit Account No. 03-1952** referencing docket no. 441742001200.

Dated: November 3, 2000

Respectfully submitted,

By: Johny U. Han  
Johny U. Han  
Registration No. 45,565

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Applicant/Patentee: James G. WHAYNE et al.

Serial No./Patent No.: To Be Assigned

Filed on/Issued: Filed herewith

For: HEART SUPPORT TO PREVENT VENTRICULAR REMODELING

Docket No.: 441743001200

VERIFIED STATEMENT CLAIMING SMALL ENTITY STATUS  
37 C.F.R. §§ 1.9(f) AND 1.27(e) — SMALL BUSINESS CONCERN

I hereby declare that I am

the owner of the small business concern identified below;  
 an official of the small business concern empowered to act on behalf of the concern identified below;

NAME OF CONCERN: CONVERGE MEDICAL, INC.

ADDRESS OF CONCERN: 7026 Koll Center Parkway, Pleasanton, CA 94566

I hereby declare that the above identified small business concern qualifies as a small business concern as defined in 13 C.F.R. § 121.12, and reproduced in 37 C.F.R. § 1.9(d), for purposes of paying reduced fees to the United States Patent and Trademark Office, in that the number of employees of the concern, including those of its affiliates, does not exceed 500 persons. For purposes of this statement, (1) the number of employees of the business concern is the average over the previous fiscal year of the concern of the persons employed on a full-time, part-time or temporary basis during each of the pay periods of the fiscal year; and (2) concerns are affiliates of each other when either, directly or indirectly, one concern controls or has the power to control the other, or a third party or parties controls or has the power to control both.

I hereby declare that rights under contract or law have been conveyed to and remain with the small business concern identified above with regard to the invention, entitled HEART SUPPORT TO PREVENT VENTRICULAR REMODELING by inventor(s) James G. WHAYNE, Deborah Tulomea, Russell A. Houser, and Sidney D. FLEISCHMAN described in

the specification filed herewith with title as listed above.  
 the application identified above.  
 the patent identified above.

If the rights held by the above identified business concern are not exclusive, each individual, concern or organization having rights in the invention must file separate verified statements averring to their status as small entities, and no rights to the invention are held by any person, other than the inventor, who would not qualify as an independent inventor under 37 C.F.R. § 1.9(c) if that person made the invention, or by any concern which would not qualify as a small business concern under 37 C.F.R. § 1.9(d), or a nonprofit organization under 37 C.F.R. § 1.9(e).

Each person, concern or organization having any rights in the invention is listed below:

no such person, concern, or organization exists.  
 each such person, concern or organization is listed below.

NAME	ADDRESS	TYPE
		<input type="checkbox"/> Individual <input type="checkbox"/> Small Business Concern <input type="checkbox"/> Nonprofit Organization

Separate verified statements are required from each named person, concern or organization having rights to the invention averring to their status as small entities. (37 C.F.R. § 1.27)

I acknowledge the duty to file, in this application or patent, notification of any change in status resulting in loss of entitlement to small entity status prior to paying, or at the time of paying, the earliest of the issue fee or any maintenance fee due after the date on which status as a small entity is no longer appropriate. (37 C.F.R. § 1.28(b))

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I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application, any patent issuing thereon, or any patent to which this verified statement is directed.

**NAME OF PERSON SIGNING:**

Russell A. Houser

NAME OF PERSON SIGNING: **Chief Technical Officer**  
TITLE OF PERSON IF OTHER THAN OWNER: **7026 Koll Center Parkw**  
ADDRESS OF PERSON SIGNING:

ADDRESS OF PERSON SIGNING: 7026 Koll Center Parkway, Pleasanton, CA 94560

ADDRESS OF THE CHURCH

**SIGNATURE**

DATE: 8/29, 2000

**COPY**

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Serial No To be assigned  
Docket No 441743001200

pa-514172